Supreme Court, U.S.
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No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Isidoro Rodriguez,

Petitioner,

v.

Danilo Davis Pereira,

Respondent/Defendant,

and

Hon. Leroy Rountree Hassell, Sr., Chief Justice of the Supreme Court of Virginia, the Virginia State Bar, and 1st Vice Chair J. Leroy Banks, Esq., of the Virginia State Bar Disciplinary System,

Respondents.

On Petition For Writ of Certiorari
to the Supreme Court of the Commonwealth of Virginia

PETITION FOR WRIT OF CERTIORARI

Isidoro Rodriguez, *Pro per*
Member of the Bar of
The United States Supreme Court, Sept. 11, 1992
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More than three years ago Petitioner Isidoro Rodriguez ("Rodriguez") in October 2003, filed this action in the Fairfax County Circuit Court seeking to protect his statutory property rights in his perfected charging Virginia Attorney's Lien, his multinational business, and his profession from a business conspiracy by his agent and local counsel Respondent Danilo Devis P. ("Devis"), and others.

Jurisdiction is present under Virginia's Long-Arm Statute because as Rodriguez's law partner and agent: first, Devis specifically agreed to abide by the laws of Virginia so to receive its "benefits and protections"; second, Devis entered Virginia to transact business; and, third, Devis in 2004 provided false testimony to the Virginia State Bar ("VSB"), as part of business conspiracy.

But Devis failed to Answer, although also in 2004 being served the complaint pursuant to the Inter-American Convention on Letters of Rogatory. Thus in February 2005, a default judgment was entered against Devis, and discovery and a jury trial on damages was ordered. However in December 2005, the Circuit Court vacated the default order and dismissed the action without prejudice. The Circuit Court disregarded the evidence that simultaneous with the court proceedings before it challenging the court's jurisdiction, but Devis used the "benefits and protection" of the laws of Virginia to make false statements to the VSB, in furtherance of the business conspiracy. The Supreme Court of Virginia ("S. Ct. of VA"), denied an appeal on June 8th, and for a rehearing on September 22nd 2006.

Simultaneous with these court proceedings finding no jurisdiction to enforce Rodriguez's statutory rights, the VSB on October 27, and November 28, 2006, stigmatized and defamed Rodriguez by revoking his license to practice law in Virginia because he took "actions" to enforce and

protect his statutory and Treaty rights as a father, as well his statutory property rights in his perfected charging Virginia Attorney's Lien.

QUESTION PRESENTED FOR REVIEW

I. WHETHER THE SUPREME COURT OF VIRGINIA ERRED BY REFUSING TO FIND JURISDICTION GIVEN THAT DEVIS ACCEPTED THE "BENEFITS AND PROTECTION" OF VA, TRANSACTION BUSINESS IN VA, AND COMMIT THE TORT OF PROVIDING FALSE TESTIMONY TO THE VSB?

II. WHETHER THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO DUE PROCESS IN AFFIRMING THE VOIDING THE DEFAULT ORDER FOR LACK OF JURISDICTION, WHILE SIMULTANEOUSLY ITS AGENT, THE VSB INVESTIGATED AND REVOKED RODRIGUEZ'S RIGHT TO PRACTICE LAW IN VIRGINIA?

III. WHETHER THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO EQUAL PROTECTION OF THE LAWS IN NOT COMPLYING WITH THE MANDATE OF THE GENERAL ASSEMBLY OF VA, AND *STARE DECISIS*, AS TO PROTECTION GIVEN TO A VIRGINIA ATTORNEY'S LIEN AND THE RIGHT TO A JURY TRIAL?

IV. WHETHER THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHTS AS AN ACTIVE MEMBER OF THE VIRGINIA BAR BY ALLOWING THE VSB TO ACT OUTSIDE OF ITS LIMITED AUTHORITY?

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CITATIONS TO OPINIONS BELOW

The unpublished orders of the Supreme Court of Virginia ("S. Ct. of VA") whose review is sought are reproduced in the Appendix at A-1, A-2, A-3, and A-4.[1] The unpublished orders of the Fairfax County Circuit Court whose review is sought are reproduced in the Appendix at A-5 and A7. The orders of their agent, 1st Vice Chair J. Leroy Banks of the VSB reproduced at A-14, A-46, and A-47. The 1991 Virginia State Bar Legal Ethics Opinion ("VSB LEO"), issued to Rodriguez is reproduced at A-50.

STATEMENT OF JURISDICTION

The S. Ct. of VA denied a motion for a preliminary injunction and writ of mandamus to the VSB on October 25, 2006. The S. Ct. of VA denied a motion to defer issuance of the mandate on October 18, 2006. The Supreme Court of Virginia denied the Petition for Rehearing *en Banc* on September 22, 2006. The S. Ct. of VA refused the Petition for Appeal on June 8, 2006. 1st Vice Chair J. Leroy Banks of the VSB issued orders revoking the licence of Rodriguez on October 27, and November 31, 2006. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. 1257(a), 42 U.S.C. §1983, *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 at 486 (1983); and, *Supreme Court of Virginia v. Consumers Union fo the United States*, 446 U.S. 719 (1980).

STATEMENT REQUIRED BY RULE 29.4

The Court is informed that 28 U.S.C. § 2403, may apply and this Petition has been served upon the Solicitor

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[1]"A-" references are to pages in the Appendix.

General of the Untied States and the Attorney General of the Commonwealth of Virginia.

U.S. CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment provides in pertinent part, that no person shall "be deprived of . . . property, without due process of law."

The Due Process Clause of Section 1 of the Fourteenth Amendment provides that, "No State shall make or enforce any law which shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

VIRGINIA CONSTITUTION AND VIRGINIA STATUTORY PROVISIONS INVOLVED

CONSTITUTION OF VIRGINIA, SECTION 11. DUE PROCESS OF LAW; OBLIGATION OF CONTRACTS; . . . ; JURY TRIAL IN CIVIL CASES.

That no person shall be deprived of his . . . property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts, . .

That in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred . . . .

Virginia Code § 8.01-336. Jury trial of right; waiver of jury trial . . . . — A. The right of trial by jury as declared in Article I, Section 11 of the Constitution of Virginia and by statutes thereof shall be preserved inviolate to the parties.

B. Waiver of jury trial. — In any action at law in which the recovery sought is greater than $100, exclusive of interest, unless one of the parties demand that the case or

any issue thereof be tried by a jury, . . . , the whole matter of law and fact may be heard and judgment given by the court. . . .

Virginia Code § 54.1-3932. Lien for fees. Any person having or claiming a right of action sounding in . . . contract, may contract with any attorney to prosecute the same, and the attorney shall have a lien upon the cause of action as security for his fees for any services rendered in relation to the cause of action or claim. . . .

Virginia Code § 18.2-499. Combination to injure others in their reputation, trade, business or profession: right of employees.

(a) Any two or more persons who shall combine, associate, agree, mutually undertake or concert together for the purpose of wilfully and maliciously injuring another in his reputation, trade, business or profession by any means whatever, . . . , or preventing or hindering another from doing or performing any lawful act, shall be jointly and severally guilty of a Class 3 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

Virginia Code § 18.2-500. Same; civil relief; damages and counsel fees; injunctions. —(a) Any person who shall be injured in his reputation, trade, business or profession by reason of a violation of § 18.2-499, may sue therefor and recover three-fold the damages by him sustained, and the costs of suit, including a reasonable fee to plaintiff's counsel; and without limiting the generality of the term, "damages" shall include loss of profits. . . .

Virginia Code § 8.01-328.1. When personal jurisdiction over person may be exercised.

A. A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

1. Transacting any business in this Commonwealth;...;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortuous injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly . . .engages in any other persistent course of conduct, or derives substantial revenue from . . . services rendered, in this Commonwealth;. . . .

STATEMENT OF THE CASE

Rodriguez has been domiciled in Virginia since 1979, and was an active member in good standing of the Virginia State Bar from June 1982 until October 27, 2006.[2]

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[2] As discussed below, 1st Chair Mr. J. Leroy Banks, Jr., Esq., issued a *void* orders to stigmatized Rodriguez by immediately revoking his license to practice law in Virginia due to taking "actions" (A-46), to enforce/protect from a business conspiracy his substantial statutory property right in his perfected Virginia Attorney's Lien; and to compel the United States Department of State, Department of Justice, and their independent contractor acting as an "instrumentality of government," the National Center for Missing & Exploited Children ("Executive Branch"), and the Virginia and Federal courts in the Fourth and D.C. Circuits ("Judicial Branch"), to comply with their respective ministerial and judicial duties to secure parental rights of visitation, and damages for obstructing in violation of 18 U.S. C. §§ 4, 1001, 1204, his parental rights. The VSB was unconcerned that Rodriguez's Son has been unlawfully deprived of the rights, privileges, and duties of his Untied States citizenship-since June 11, 2002.

In 1987, as a condition precedent to forming a multinational law partnership focused on serving United States transnational business in South America, and litigating the rights of nonresident Hispanics in the United States,[3] pursuant to Virginia Rules of Professional Conduct, Rule 5.1 and 5.2, Rodriguez required that his prospective Colombian law partner, Danilo Devis Pereira ("Devis"), agreed to subject himself to the laws and jurisdiction of Virginia.[4]

In 1988, because Rodriguez was a member of the Virginia State Bar, with an office Colombia, the Board of Director's of Sea Search Armada *et al.* ("SAA Entities *et*

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[3]On March 15, 1995, prior to Rodriguez successfully arguing *Martinez v. Lamagno and DEA*, 115 S.Ct. 2227; 132 L.Ed. 2d 375 (1995), the *Legal Times* in an article confirmed with the Clerk's office that Rodriguez was the only U.S. licensed attorney in their records who resided outside the United States, but litigated in Federal courts.

[4]Rodriguez felt confident in Devis loyalty because Rodriguez saved Devis' life in 1985, by disarming an assailant who had fired shots at Devis' head, and when Rodriguez was Assistant General Counsel, Morrison Knudsen International on the $2 Billion EXXON Cerrejon Coal Project in the Republic of Colombia ("Colombia"), Rodriguez retained Devis as his local counsel.

al."),[5] enacted a Board Resolution on December 15, 1988,[6] to retain on an hourly fee contract Rodriguez to serve as their Legal Representative and Managing Attorney of their $10 Billion contract claim against Colombia (A-17). However, prior to this on December 14, 1988, SSA Entities *et al.,* required as a condition precedent that Rodriguez confirm that **"[a]s an Attorney licensed by the State of Virginia, Bar Membership Number 21573, [he understood] that any violation of the above restrictions will result in an action before the Virginia Bar Ethics Committee."** (Emphasis added)(A-17). Thus the evidence is clear, SSA Entities *et al.*, specifically sought out Rodriguez to avail themselves of the **"benefits and protection"** of the laws of Virginia.

Shortly thereafter, upon Devis' confirming to comply with the laws of Virginia, Rodriguez named Devis <u>his</u> local

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[5]SSA Entities *et al.,* are a joint venture of entities and individuals, including former White House Advisor John Erlichman, former White House Counsel James Falk, former Congressman Guy Vander Jagt as their lobbyists, and a number of major Beltway law firms, that assumed Sea Search-Armada and Armada Company's claim to 17 treasure troves targets sunk off the coast of Colombia valued at $3 to $10 Billion.

[6] Pursuant to the laws of Colombia to obtained jurisdiction to sue in Colombia, the Board of Directors were required to enact a general power of attorney by Board Resolution giving Rodriguez in Colombia all all their authority. <u>As noted, the Board did this because they availed themselves of the "benefits and protection" of the laws of Virginia by Rodriguez's fiduciary duty being governed by the Virginia State Bar.</u> The record confirms that to date this Board Resolution and the Power of Attorney has not been rescinded pursuant to the laws of Colombia, and is still effective.

counsel with the limited authority of filing the litigation against Colombia. However, pursuant to the laws of Colombia, Rodrīguez as Legal Representative was responsible for the litigation as SSA Entities *et al.* Devis specifically agreed to abide by the laws of Virginia to obtain its "benefits and protection."(A-52).

After SSA Entities *et al*, as part of the hourly fee contracted, payed a retainer to Rodriguez of $10,000, to be responsible for what has been described as the "largest claim by American citizens against a foreign nation," from January 1989 to January 1991, SSA *et al.*, not only disregarded all monthly invoices sent for fees by Rodriguez, but more importantly "without [Rodriguez's] knowledge, sent a defamatory letter against [government of Colombia]" placing Rodriguez and Devis in "physical danger" (A-52).

Pursuant to the VSB procedure, based on these facts Rodriguez sought a VSB opinion. VSB LEO #1325, dated February 27, 2990 (A-50), issued to Rodriguez confirmed that Rodriguez's fiduciary duty, and obviously as well as of Devis as his law partner were under the supervision of the Virginia State Bar and the laws of Virginia, irrespective of Rodriguez providing legal services in Colombia, and that he had a right to sue his client for his fees in case of fraud.

Upon receiving from Rodriguez notice that he planned to filed suit for past fees based on VSB LEO # 1325 (A-50), the Board of Director's in January 1991, agreed to change Rodriguez's hourly fee to a 10% continency fee, and to not issue any more "defamatory letter[s]" against Colombia. As consideration for the contingency fee agreement Rodriguez agreed to waive the fees owed to him and Devis services from January 1989 to

January 1991, under the hourly contract.[7] Devis signed the contingency fee agreement on behalf of Devis and Rodriguez, and Rodriguez signed on behalf of SSA Entities *et al.* The contingency fee agreement was registered with the Colombian court.

After the contingency fee agreement was entered Rodriguez attended the mandatory ADR meeting in 1993 with the representatives the President of Colombia, and authorized Devis to travel as his agent to Virginia beginning in 1995, to transact business and conduct meetings with SSA Entities *et al.,* and their Lobbyist Mr. Guy Vander Jagt. At all times Devis provided a report at weekly meetings with Rodriguez as to both the status of litigation and strategy against the Government of Colombia.

Suddenly after the start of settlement negotiations in the Summer of 1998 began with Colombia Devis, did undertake a business conspiracy with SSA Entities *et al.,* to fraudulently deprive Rodriguez of his substantive statutory property right in his perfected charging Virginia Attorney's Lien.[8]

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[7] Devis had no direct contract with SSA Entities *et al.,* but instead his time was billed as part of the monthly invoice Rodriguez submited to SSA Entities *et al.*

[8]On April 6, 2000, without the legally required Board of Director's Resolution, Harbeston sent a letter unlawful terminating Rodriguez as Legal Representative and Managing Attorney to SSA Entities, *et al.*. On the same date, April 6, 2000, Devis sent a letter from Colombia into Virginia stating that Rodriguez had nothing what so ever to do with the litigation against Colombia. In June 2002, Devis assisted SSA Entities *et al.,* to fraudulently dissolve and illegal transferred title of the 15 sunken treasure ships from

Consequently, in September 2000, and then in October 2003, Rodriguez filed actions in both Federal and Virginia Courts to enforce and protect his perfected Virginia Attorney's Lien pursuant to the rights granted by the General Assembly of Virginia to all other Virginia attorneys under VA Code § 54.1-3932, VSB LEO #1325,[9] VA Bar LEO #1606, and #1766, and the *stare decisis* of the S. Ct. of VA, *see Huges v. Cole*, 251 Va3 (1996); *Heinzman v. Fine, Fine, Legion and Fine*, 217 Va. 958 (1977). Therefore, because Rodriguez provided 12 years of legal services as a U.S. "ex-pat" Legal Representative and Managing Attorney in Colombia from August 1988 to April 2000, and had not received any fee but for the retainer, based on *quantum merit* Rodriguez has an inchoate perfected charging Virginia Attorney's Lien of $360,000 per year for a total of $4.6 million.

The record now confirms that in furtherance of the business conspiracy as a counter strategy to Rodriguez's suit, SSA Entities et al., instructed its Lobbyist and their Washington attorneys to use their "Beltway" political power and judicial cronyism, to get Rodriguez out of Virginia the back to Colombia. To this end Rodriguez Son was shanghaied to Colombia on June 11, 2002,[10] and the Rodriguez parental rights were obstructed in violation of 18 U.S.C. §§

Sea Search-Armada to IOTA Partners. In January 2004, Devis gave false testimony in support of the unverified by affidavit VSB complaint against Rodriguez.

[9]This VSB LEO (A-55), confirmed Rodriguez's right to sue his client SSA Entities *et al.*, for his fees in case of "fraud."

[10]At that time Colombia was considered the most dangers location of U.S. citizens by the U.S. Department of States, and to date is the subject of Travel Warnings.

4 and 1204.[11] Also SSA Entities *et al.*, and the NCMEC et al. conspired to file two unverified by affidavit VSB Complaint, against Rodriguez: first, on October 13, 2003, the NCMEC et al. *et al.*, filed VSB Docket # 04-052-1044, and second, on January 15, 2004, at the same time that SSA Entities *et al.*, and Devis were challenging the jurisdiction of the Virginia Court, they availed themselves of the "benefits and protection" of Virginia law by filing an unverified by affidavit VSB Complaint, to "disbar" Rodriguez to punish Rodriguez for his litigation to enforce his property rights, VSB Docket # 04-052-0794.

On June 15, 2004, Devis was properly served pursuant to the Inter-American Convention on Letters of Rogatory. Devis failed Answer, despite his providing false testimony to the VSB. On January 23, 2005, the Fairfax Circuit Court entered a default order, ordered discovery and a jury trial on damages (A-7).

Based on the record of obstructing with Rodriguez's rights as a father, and depriving him of his perfected statutory property rights, in June/July 2005, Rodriguez

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[11]On January 23, 2003, Rodriguez and his Son filed an action against the NCMEC et al. for damages and to seek the issuance of a TRO/Injunction and Writ of Mandamus compel the Executive Branch's compliance with their ministerial duty to secure visitations pursuant to Virginia's Uniform Child Custody and Enforcement Act ("UCCJEA) VA Code § 20-146.01 *et seq.*, the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, ("Treaty"), the International Child Abduction Remedies Act, 42 U.S.C. § 11601 *et seq.*, ("ICARA"), and the Joint Resolution 296 of the House of Representative, *see Sarah Claudia Aragon Canter vs. Andrew Cohen*, 442 F.3d 196 (4th Cir., March 21, 2006).

filed Notices of a Federal Tort Claim and a Notices of Virginia Tort Claim against the Virginia and Federal Judicial Branch for acts outside of their respective judicial capacity and jurisdiction.

Shortly thereafter, in response to Devis' motion to vacate the default order, on December 16, 2005, without requiring Devis to present any evidence as to why jurisdiction was not present to support the default order the Fairfax Circuit Court issued an order denying discovery, denying the demanded jury trial, and vacated the default order without prejudice based on lack of jurisdiction (A-5).

An appeal was filed with the S. Ct. of VA, which was denied on June 8, 2006 (A-4). A Petition for Rehearing *En Banc*, was denied on September 22, 2006 (A-3).

Simultaneous with the actions before the Fairfax Circuit Court, as well as the S. Ct. of VA, based on these two unverified by affidavit VSB Complaints, Rodriguez has been the subject of an intense VSB investigation since October 2003, that uncovered material facts which confirmed that SSA Entities *et al.*, had retained Rodriguez to avail themselves of the "**benefits and protection**" of Virginia law (A-17). Despite the existence of this record in their possession, or because of it, on June 20, 2006, the VSB Fifth District Subcommittee issued a Certification to disbar or revoke Rodriguez's license based on his litigating to enforce his parental rights and his property rights in his Virginia Attorney's Lien. The Certification process was used to deny Rodriguez discovery or any hearing. Without citing either any documentary evidence to support the finding of misconduct, or what in fact was Rodriguez's misconduct, the VSB made a factual determination that Rodriguez had lost his rights as a father and was not retained as a Virginia attorney, but instead was hired as a Spanish "translator."

Rodriguez filed an appeal to the Virginia State Bar Disciplinary Board, and pre-Hearing Motions to Dismiss the Certification for Lack of Subject Matter Jurisdiction, to Recuse the Panel Members, and a for a Jury Trial.

1st Chair J. Leroy Banks, Jr., of the VSB denied these holding that the Rules of the Supreme Court permitted the Bar to investigate and prosecute alleged ethical violations, irrespective of statutory rights. Subsequently, Mr. J. Leroy Banks denied Rodriguez of his right to confront witnesses and to secure documents by quashing all of the requested for Subpoenas *Duces Tecum*, and Witness Summons.

On September 27, 2006, a Motion for a Preliminary Injunction and the issuance of a Writ of Mandamus was filed with the S. Ct. of VA, to enjoin the VSB for violation of both the Virginia Constitution, Virginia Supreme Court Rules, and VA Code. This motion was denied on October 25, 2007(A-1).

At the hearing held on October 26 and 27, 2006, the Panel refused to permit into the record any evidence regarding Rodriguez's statutory rights as a father or his Virginia Attorneys Lien, holding that it was an attempt to again litigate issues they contended were decided by the courts already, and limited the hearing only to the evidence presented by the Senior Bar Counsel of Rodriguez litigation.

On October 27, 2006, and November 31, 2006, orders were issued, immediately revoking Rodriguez license to practice law. These were immediately published at www.vsb.-org.html. A timely Notice of Appeal will be filed with the S. Ct. of VA before December 31, 2006, but no stay is permitted during the appeal process.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

I. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA ERRED IN NOT HOLDING THAT JURISDICTION PRESENT DUE TO DEVIS OBTAINING THE "BENEFITS AND PROTECTION" OF THE LAWS OF VIRGINIA, TRANSACTING BUSINESS IN VIRGINIA AND PROVIDING FALSE TESTIMONY TO THE VSB.

In *Hanson v. Denckla*, 357 U.S. 235 at 254(1958), this Court defined the benchmark in determining jurisdiction over Devis in this action. There this Court stated,

> The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State. The application of that rule will vary with the quality and nature of the defendant's activity, but it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws. *International Shoe Co. v. Washington,* 326 U.S. 310, 319. (Emphasis added) *See also, Republic of Argentina v. Weltover, Inc.*, 504 U.S. 607 (1992).

Therefore, jurisdiction over Devis is based on circumstances of this case amounting to sufficient affiliation with the State of Virginia, i.e. Devis agreeing to abide by the laws of Virginia to obtain its "benefits and protection" (A-52), Davis transacting business in Virginia, Davis providing tortious false statement in support of two unverified by affidavit VSB Complaint. Thus, the Courts of

Virginia are empowered to exercise personal jurisdiction over this nonresident defendant. *McGee v. International Life Ins. Co.,* 355 U.S. 220 (1957).

In *McGee* the Court noted the trend of expanding personal jurisdiction over nonresidents is away from the rigid rule of *Pennoyer v. Neff,* 95 U.S. 714 (1878), to the flexible standard of *International Shoe Co. v. Washington,* 326 U.S. 310 (1945).

Consequently, this suit is one to enforce an obligation that arose from a privilege Devis exercised under Virginia law. Cf. *International Shoe Co. v. Washington,* 326 U.S. 310, 319 (1945). Here Virginia special legislation, the Virginia Code of Professional Responsibility, and Virginia Attorney's Lien statute is what in *McGee* this Court called the State's "manifest interest" in providing effective redress for citizens who had been injured by nonresidents engaged in an activity that the State treats as exceptional and subjects to special regulation.

For the reason that Devis accepted the laws of Virginia to work with a Virginia attorney (A-50), and utilized the benefits and protection of Virginia law in assisting in the filing a fraudulent unverified by affidavit VSB Complaint, jurisdiction is present.

II. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO DUE PROCESS BY AFFIRMING THAT VOIDING OF THE DEFAULT ORDER FOR LACK OF JURISDICTION, WHILE THE VSB INVESTIGATED AND REVOKED RODRIGUEZ'S RIGHT TO PRACTICE LAW IN VIRGINIA.

Due process of law is a legal concept that ensures the government will respect all of a person's legal rights instead of just some or most of those legal rights, when the government deprives a person of life, liberty, or property. Due process has also been interpreted as placing limitations on laws and legal proceedings in order to guarantee fundamental fairness, justice, and liberty. To this end the Fifth Amendment contains a guarantee of basic due process applicable only to actions of the federal government--"No person shall be . . . deprived of life, liberty, or property, without due process of law . . ."

The 14th Amendment contains the same verbiage expressly applied to Virginia. The Supreme Court has interpreted the two clauses identically, so under the federal Constitution, there is no substantial difference in protection from federal or State action. However, Virginia's constitution also has its own guarantees of due process that by their own terms or by the interpretation of the Virginia Courts, extend even more protection to individuals than under federal law. Article 1, Section 11 of the Constitution of Virginia.

Additionally, this Court has recognized state-created interests called "entitlements" in cases involving welfare benefits, *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 278 (1978), public employment, *Board of Regents v. Roth*, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed. 2d 548 (1972), and social security duality benefits, social security disability benefits *Mathews v. Eldridge*, 424 U.S. 332, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). Such entitlements are privileges extended to the public at large or to a well-defined section of society, i.e. an active member of the Virginia Bar under a retainer agrees to litigate a contract dispute, VA Code § 54.1-3932.

To claim to such entitlement, Rodriguez must demonstrate both his inclusion in the group expecting the entitlement, and that such entitlement is present in "rules and understandings, promulgated and fostered by state officials." *Perry v. Sinderman*, 408 U.S. 593, 93 U.S. 2694, 33 L.Ed.2d 570 (1972).

Rodriguez meets both of these requirements in satisfying VA Code with his contract with both SSA Entities *et al.*, and Devis, and complying with the procedure of the Virginia Bar in obtaining the Legal Ethics Opinion (A-50), before seeking protection from a business conspiracy. Rodriguez has a constitutionally protected property right in his perfected charging Virginia Attorney's Lien, his business and profession, which has been violated by the Courts of Virginia denying to grant him procedural due process by allowing the VSB to investigate him, and issue a void order revoking his license to practice since October 27, 2006.

In *Leis v. Flynt*, 439 U.S. 438, 99 S.Ct. 698(1979), this Court stated, "the Constitution does not create property interests. Rather it extends various procedural safeguards to certain interests 'that stem from an independent source such as state law.'" *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972); *see Perry v. Sindermann*, 408 U.S. 593, 602 n. 7 (1972), ". . . . A claim of entitlement under state law, to be enforceable, must be derived from statute or legal rule or through a mutually explicit understanding. *See Perry, supra*, at 601-602. "

Here Rodriguez has a statute which has given him as a Virginia Attorney a property right, a Legal Ethics Opinion which confirms that he can protect said right from fraud, and Virginia precedent based on the clear intent of the State legislature holding that there is "no limitation," to protect said right, yet the S. Ct. of VA has refused to explain

why the court would not enforce Rodriguez statutory property right, thereby violating his right to due process "without a meaningful hearing, the application of a reasonable clear legal standard and the statement of a rational bases," for neither enforcing nor providing protection against fraud and business conspiracy. See *Flynt v. Leis* 574 F.2d 874 (6th Cir. 1978).

Finally, disbarment, is designed to protect the public as a punishment or penalty imposed on the lawyer. *Ex parte Garland*, 4 Wall. 333, 380, 18 L.Ed. 366 (1841). These are adversary proceedings of a quasi-criminal nature. *Cf. In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527. Consequently, Rodriguez must be accordingly entitled to procedural due process, which includes fair notice of the charge, the opportunity to call witnesses, and compel the production of documents. *See In re Oliver*, 333 U.S. 257, 273, 68 S.Ct. 499, 507, 92 L.Ed. 682. None of which was done.

The VSB, under the direction of the Chief Justice of the S. Ct. of VA violated Rodriguez rights pursuant to the Art. I, § 1, § 2, § 3 § 7, § 8 § 11§ 14, and § 17; and Art. VI, §§ 1, 4, and 5 of the Constitution of Virginia, and the First, Fifth, Sixth, Seventh, Ninth, and Fourteenth Amendment to the United States Constitution, by use of an unauthorized procedure to deny him of this right to a jury trial, deprive Rodriguez of the right to discovery, and actual notice of alleged wrongs and the facts in support thereof. Furthermore, Rodriguez was denied due process by denying a meaningful hearing by refusing to issue Witness Summons,

and Subpoenas *Duces Tecum* so to confront his accusers and to compel the production of documents in his defense.[12]

The record confirms that Rodriguez was not only denied the right to confront witnesses against him, the right to compel the production of documents on the issue of payment, denied the right to present his defense based on his rights under Va. Code, Treaty and Federal statutes, that the facts make clear that there was such an infirmity of any proof establishing misconduct by Rodriguez that the record will show the VSB hearing was nothing but a "kangaroo court";[13]

III. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO EQUAL PROTECTION OF THE LAWS BY IT DISREGARDING THE MANDATE OF THE GENERAL ASSEMBLY, *STARE DECISIS*, A JURY TRIAL.

The S. Ct. of VA has denied Rodriguez his right to equal protection of the laws and due process rights guaran

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[12] The VSB "hearing" given to Rodriguez eviscerated the Confrontation Clause as applied in *Crawford v. Washington*, 541 U.S. 36 (2004) and *Tennessee v. Street*, 471 U.S. 409 (1995).

[13] "*Kangaroo court.*" . . . 2. A. Court or tribunal characterized by **unauthorized or irregular procedures**, esp. so as to render a fair proceeding impossible. 3. **A sham legal proceeding**. o The terms's origin is uncertain, traced to 1853 in the American West. 'Kangaroo' might refer to the illogical leaps between 'facts' and conclusions, or to the hapless defendant's quick bounce from court to gallows." Bryan A. Garner, Black's Law Dictionary, at page 382 (8th ed., 1999). (Emphasis added)

teed to him by both the United States Constitution and the Constitution of Virginia.

Equal protection and due process rights are described in Section 1 of the Fourteenth Amendment to the United States Constitution in the following language: "No state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The due process guarantees of Article I, Section 11 of the Constitution of Virginia are virtually the same as those of the United States Constitution.

However, the equal protection rights of Article I, Section 11 of the Constitution of Virginia are provided in its so-called "anti-discrimination" clause, which states: "the right [of a person] to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex, or national origin shall not be abridged."

In the instant action the S. Ct. of VA has violated both Constitutions by: first, denying Rodriguez of the equal protection of the law granted by the General Assembly of Virginia to all other Virginia attorneys under VA Code § 54.1-3932, VSB LEO #1325(A-50), VA Bar LEO #1606,[14] and #1766, and the *stare decisis* of the S. Ct of VA, *see Huges v. Cole*, 251 Va3 (1996); *Heinzman v. Fine, Fine, Legi*

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[14]LEO 1606, states that, "[w]hen the attorney is discharged prior to the completion of the representation he may recover the reasonable value of the service which he has rendered . . . and in instances where the fee is contingent upon the outcome of the matter, the attorney may . . . recovery in *quantum merit* for services actually rendered. *See also Virginia Lawyer Register*, Answering Your Questions about Legal Ethics, Anne P. Miche, Assistant Ethics Counsel, Vol 51/No. 8, p. 13, ¶ 17-March 2003.

on and Fine, 217 Va. 958 (1977); second, by stigmatizing Rodriguez as noting but a Spanish "translator," and by revoking his license for seeking to enforce his rights as an active member of the Virginia State Bar.

IV. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHTS BY ALLOWING THE VSB TO ACT OUTSIDE OF ITS AUTHORITY IN RETALIATION FOR HIS FILING A NOTICE OF A VIRGINIA TORT CLAIM?

A. VSB Is Without Statutory Authority under VA Code

Pursuant to VA Code § 54.1-3935, the General Assembly of Virginia only gave to "courts" of Virginia the statutory authority to revoke the license as an active member of the Virginia State Bar.[15]

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[15] In Va Code § 54.1-3935. Procedure for revocation of license, states. "A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has . . . has violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked. (Emphasis Added)

B. If the rule is issued by the Supreme Court . . . the rule shall be returnable to the Circuit Court of the City of Richmond. At the time the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and

The General Assembly limited the VSB authority to investigate, and prosecute allegations in support of revoking a license of a member of the Virginia State Bar.

Finally, the General Assembly set out the specific procedure which was to be followed by Virginia Court when hearing a complaint verified by affidavit, seeking the revoking of a license to practice law. This was not complied with in the VSB proceedings.

B. VSB Is Without Authority under Va. S. Ct. Rules

At the outset, pursuant to "the well recognize rule of construction that if a rule of the Supreme Court [of Virginia] is at variance with a statutory enactment, the

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decide the case. . . . In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court. (Emphasis Added)

C. Bar Counsel of the Virginia State Bar shall prosecute the case. . . . (Emphasis Added)

D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked or suspended for such time as the court may prescribe. In lieu of revocation or suspension, the court may impose any other sanction authorized by Part Six, Section IV, Paragraph 13 of the Rules of Court. (Emphasis added)

E. The attorney, may, as of right, appeal from the judgment of the court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, as set forth in Part 5 of the Rules of Court. In any such appeal, the Supreme Court may, upon petition of the attorney, stay the effect of an order of suspension during the pendency of the appeal. Any order of reprimand shall be automatically stayed prior to or during the pendency of an appeal therefrom. No stay shall be granted in cases where the attorney's license to practice law has been revoked. . ..

terms of the statute must prevail."1996 Va. AG 23, at page 2 (Emphasis added).

Consequently, the S. Ct. of VA cannot expand the authority of the VSB beyond that which was given by the General Assembly of Virginia.

The fact is that Part 6, § IV, ¶ 13(B)(5)(A)of the Rules of the Virginia Supreme Court, the VSB was delegated no authority to revoke the license of a member of the Virginia State. Thus, the VSB Order is *void*, and the S. Ct. of VA denied Rodriguez due process by not enjoining the VSB (A-1).

C. The VSB Had No Authority to Investigate Rodriguez for Exercising His Rights Under VA Code, Treaty and Federal Statute.

The VSB has violated its limited authority to investigate and prosecute by disregarding the restrictions of Part 6, § IV, ¶13(C)(5)(a) and (G)(1)(a)(1) and (5) of the Rules of the Virginia Supreme Court.

The VSB repeatedly demonstrated their lack of impartiality and a discriminatory attitude by seeking to punish and stigmatize Rodriguez for:

o litigating to secure his rights as a father under Va. Code, Treaty, and Federal;

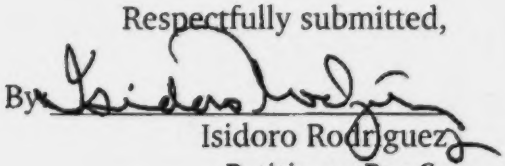
o seeking an investigation by both Congress and the General Assembly of Virginia of the refusal of the Executive Branch and the Judiciary to comply with the mandates under VA Code and Treaty;

and is *void*.[17] Consequently, th S. Ct. of VA has denied Rodriguez due process and equal protection of the laws in retaliation for his filing of a Notice of a Virginia Tort Claim against them for their acts outside of their jurisdiction and judicial capacity.

CONCLUSION

For the above reason, the Petition should be granted.

Respectfully submitted,

By 

Isidoro Rodriguez
Petitioner Pro Se
Admitted to the Bar of
The United States Supreme Court, Sept. 11, 1992

7924Payton Forest Trail
Annandale, Virginia 22003-1560
Telephone: 571.423.5066

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[17]Pursuant to the United States Supreme Court, an illegal order is forever void. An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; Windsor v. McVeigh, 93 US 274, 23 L ed 914 (1876); *McDonald v. Mabee* 243 US 90, 37 Sct 343, 61 L ed 608 (1917).

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VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday *the* 25th *day of* October, 2006.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 060520
Circuit Court No. CL215327

Danilo Devis Pereira, et al..

Respondents.

Upon a Petition for Writ of Mandamus

On September 28, 2006 came the petitioner, in proper person, and filed a "motion for preliminary injunction and writ of mandamus." Thereupon came the Virginia State Bar Disciplinary System, by the Attorney General of Virginia, and filed a motion to dismiss or, in the alternative, a demurrer.

Upon consideration whereof, the Court grants the motion to dismiss and the motion filed herein is denied and dismissed as frivolous.

Respondent Virginia State Bar Disciplinary System shall recover of the petitioner its costs expended for its defense.

Respondent's costs: Attorney's fee $50.00

A Copy,
Teste:
/S/
Patricia L. Hanninton, Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday *the* 18th *day of* October, 2006.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 060520
Circuit Court No. CL215327

Danilo Devis Pereira,

Appellee.

From the Circuit Court of Fairfax County

On September 28, 2006 came the appellant, in proper person, and filed a motion to defer issuance of the mandate in this case.

Upon consideration whereof, the Court denies the motion.

A copy,
Teste:
_____S_____
Patricia L. Harrington, Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 22th *day of* September, 2006.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 060520
Circuit Court No. CL215327

Danilo Devis Pereira,

Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgement rendered herein on the 8th of June, 2006 and grant a rehearing thereof, the prayer of the said petition is denied.

A copy,

Teste:

S

E. Edwards, Deputy, Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday *the* 8th *day of* June, 2006.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 060520
Circuit Court No. CL215327

Danilo Devis Pereira,

Appellee.

From the Circuit Court of Fairfax County

Upon review of the record in this case and consideration of the argument submitted in support and in opposition to the granting of the appeal, the Court is of the opinion there is no reversible error in judgement complained of. Accordingly, the Court refuses the petition for appeal.

A copy,

Teste:

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D.M Buel Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Isidoro Rodriguez, Esq.,
Plaintiff,

v. Law No. 215327

Guy Vander Jagt et al.,
Defendants.

FINAL ORDER OF DISMISSAL

This matter came before the Court on Defendant Danilo Devis Pereira' Motion to Dismiss for Lack of Jurisdiction. Upon consideration of the Motion, Plaintiff's Opposition, *ore tenus* hearing, and the argument of counsel, and

It appearing to the Court that the Entry of Default Order as to Defendant Danilo Devis Pereira is void for lack of jurisdiction as Plaintiff failed to satisfy the requirements for personal jurisdiction set forth in Va. Code Ann. §8.01-328.1; it is

ORDERED that the Entry of Default Order as to Defendant Danilo Devis Pereira is SET, ASIDE and VACATED as VOID for lack of personal jurisdiction; and it is further

ORDERED that this law action is DISMISSED WITHOUT PREJUDICE as to Defendant Danilo Devis Pereira for lack of personal jurisdiction.

ENTERED this 16TH day of December 2005.

/S/

The Honorable Michael P. McWeeny
Judge, Fairfax Circuit Court

WE ASK FOR THIS:

/S/

R. Harrison Pledger, Jr. Esq.
John E. Peterson, Jr. Esq.
Counsel Appearing Specially on Behalf of
Defendnat Danilo Devis Pereira

SEEN and Objected to:

1. Issue of Defendant's failure to comply with VA Code 8:01-4, by putting burden on Plainitiff after entry of defualt.
2. Issue of denial of demand for jury trial on all issues of disputes of fact;
3. Issue that Default Judgement entered on January, 2005 was not a final order.

/S/

Isidoro Rodriguez, Esq.
Plaintiff Pro Se

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Isidoro Rodriguez, Esq.,
Plaintiff,

v. Law No. 215327

Guy Vander Jagt et al.,
Defendants.

ENTRY OF DEFAULT ORDER

Upon consideration of Plaintjff Isidoro Rodriguez's Application for Entry of Default, along with the supporting Affidavit with Attachments, both being in compliance with VA Rule 3:5, and :17, and the Treaty, it is hereby determined that a coy of the Summons, together with a copy of the First Motion for Judgment, the Form 272 and 272A, and Request for International Judicial Assistance pursuant to the additional protocol to the Inter-American Convention, signed Hon. Judge Robert W. Wooldridge, Jr., and with the seal of the Office of the Clerk, Fairfax County Circuit Court were served upon the Defendant Danilo Devis Pereira, in accordance with the Treaty, on June 9, 2004.

Pursuant to VA Rule 3:5, and :17. and the Treaty, service of process was deemed complete on Defendant DaniJo Devis Pereira June 9, 2004. The Defendant Danilo Devis Pereira has failed to plead, defend or otherwise respond to this action.

THEREFORE, default is hereby entered against

Defendant Danilo Devis Pereira, this the 15th day of February, 2005, and it is ordered that Plaintiff is permitted to conduct discovery on the issue of damages, and present said evidence to a jury, on a date to be later determined.

/S/

The Honorable Michael P. McWeeny
Judge, Fairfax Circuit Court

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 12th *day of* October, 2004.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 040942
Circuit Court No. L215327

HFP, Inc., et al.,

Appellees.

From the Circuit Court of Fairfax County

Upon review of the record in this case and consideration of the argument submitted in support of the granting of the appeal, the Court is of the opinion there is no reversible error in judgement complained of. Accordingly, the Court refuses the petition for appeal.

Upon further consideration whereof, appellant's motion for judicial notice is denied.

A copy,

Teste:

_____S_____

Clerk

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 13th *day of* August, 2004.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 040941
Circuit Court No. L215327

Guy Vanderjagt, Esq., et al.,

Appellees.

From the Circuit Court of Fairfax County

Upon review of the record in this case and consideration of the argument submitted in support and in opposition to the granting of the appeal, the Court is of the opinion there is no reversible error in judgement complained of. Accordingly, the Court refuses the petition for appeal.

A copy,

Teste:

_____S_____

Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

RODRIGUEZ

Plaintiff/Complaint

v. Law No. 215327

Vander Jagt et al.,

Defendant/Respondent,

ORDER

This case came to be heard on the 27th day of February, 2004, on the Defendants motion to dismiss.

Upon the matters presented to the Court at the Hearing it is, ADJUDGED, ORDERED, AND DECREED as follows: that the motion of the defendants HFP, Inc., IOTA Partners LP; Murdock & Company; Jerome Baron, Jack Harbeston and Edris S. Harbeston to dismiss is granted. Further Ordered that these defendants motion for sanctions is denied.

Entered, this 27th day of February, 2004.

_____/S/_____

Robert W. Wooldridge, Circuit Court Judge

Objection based on issues raised in Response Brief, and as noted in argument.

_____/S/___
Isidoro Rodriguez
Counsel for Plaintiff

___/S/_____
R. Harrison Pledger, Jr.
Counsel for Defendant

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Isidoro Rodriguez, Esq.,
Plaintiff/Complaint,

v. Law No. 215327

Guy Vander Jagt et al.,
Defendant/Respondent,

ORDER

This case came to be heard on the 23rd day of January, 2004, on the Defendants motion to Strike, Demurrer and Sanctions filed by Pledger and by Vander Jagt.

Upon the matters presented to the Court at the Hearing it is, ADJUDGED, ORDERED, AND DECREED as follows: Pledger's motion to Strike and Motion for Sanctions is denied and Vander Jagt's motion to strike and Motion for Sanctions is Denied. Pledger's Demurrer is Sustained and all claims against Pledger individually and Pledger & Feord are dismissed with prejudice. Vander Jagt's Demurrer is sustained and all claims against Vander Jagt are dismissed with prejudice.

Entered, this 23rd day of January, 2004.

_____/S/_____
Robert W. Wooldridge, Circuit Court Judge

Objection to dismissal of Vander Jagt and Pledger.

Objection to dismissal with prejudice.

_____/S/____
Isidoro Rodriguez
Counsel for Plaintiff

_____/S/_____
Counsel for
Defendant Vander Jagt

_____/S/_____
Counsel for
Defendant Pledger

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF ISIDORO RODRIGUEZ

VSB DOCKET NOS. 04-052-0794 and 04-052-1044

ORDER OF VIRGINIA STATE BAR DISCIPLINARY BOARD

THIS MATTER came on to be heard on the 26th and 27th days of October, 2006, before a panel of the Disciplinary Board consisting of James L Banks, Jr., 1st Vice-Chair, presiding,(the "Chair"), William C. Boyce Jr, Glenn M. Hodge, William F. (Hover, and Stephen A. Wannall, Lay member. The Virginia State Bar ("VSB" or "Bar") was represented by Noel D. Sengel, Senior Assistant Bar Counsel. The Respondent, Isidro Rodriguez, appeared in person and represented himself. The Chair polled the members of the Board Panel as to whether any of them was aware of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member; including the Chair, responded in the negative. Donna T. Chandler, RPR, RMR, CCR of Chandler & Ralasz, court reporter. P.O. Box 9349, Richmond, Virginia, 23227, (804-730-1222) after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the Subcommittee Determination (Corrected Certification) by the Fifth District Committee Section II.

At the beginning of the proceedings the Respondent renewed his motion for the members of the panel to disqualify themselves as being interested patties for the reasons stated in his written motion previously filed. Upon consideration of this motion it was denied by the Panel for the reasons previously stated in the Board's Order of August 8,2006 that originally addressed Respondent's Motion to Recuse and Disqualify Members of the Disciplinary Board Within the Jurisdiction of N. Virginia and the U.S. Dist. Ct. for the RD. of Va. so to Assure Impartiality.

FINDINGS OF FACT

VSB Exhibits 1-92 were admitted during the course of the hearing without objection. The Respondent's Exhibits 1-42 were admitted during the course of the hearing without objection or over Bar counsel's objection. The VSB presented evidence through its witnesses, the Respondent cross-examined the witnesses and thereafter testified on his own behalf. After consideration of the exhibits and the testimony the Board makes the following findings of fact on the basis of clear and convincing evidence:

VSBNo. 04-052-0794

1. At all times relevant hereto, Isidoro Rodriguez,

hereinafter the "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been 7924 Peyton Forest Trail, Annandale, VA 22003-1560. VSB Ex. 1. The Respondent received paper notice of this proceeding as required by Part Six, IV, 13 (E) and (I)(a) of the Rules of Virginia Supreme Court. VSB Ex. 2.

2. The Complainant, Jack Harbeston, hereinafter referred to as "Harbeston", was the managing director of Sea Search Armada ("SSA") a Cayman Island entity that invests in and conducts searches for sunken treasure ships and engages in the salvage and the recovery of their contents. Sometime prior to 1988 SSA had discovered what it thought to be the remains of sunken Spanish ships off the coast of Colombia. SSA had been unable to have its rights to any sunken treasure recognized by the government of Columbia and was looking for legal representation in Colombia to assert its claims.

Harbeston sought assistance from the Economic Officer at the United States Embassy in Bogota, Colombia for names of attorneys who could represent SSA The Economic Officer provided Harbeston with a list of attorneys in Colombia which included the Respondent as a member of the partnership of Devis and Rodriguez. Harbeston subsequently contacted the Respondent regarding possible legal representation. In his conversation with the Respondent, Harbeston learned that Devis, a Colombian attorney, would handle any litigation on behalf of SSA in the Colombian courts. Harbeston was looking for an American attorney, if possible, because of his concerns as to

the potentially divided loyalty of a Colombian attorney. In correspondence between the Respondent and Harbeston, Respondent noted that he was the only attorney licensed in the United States working in Colombia and as such his firm was subject to the same standards as law firm in the United States; that unlike any other firm in Colombia his firm "must comply with the State of Virginia Bar Association's Ethics of Professional Responsibility." VSB Ex. 4.

3. SSA subsequently hired the firm of Devis and Rodriguez. By agreement dated October 20, 1988, the parties entered into a representation agreement prepared by Rodriguez which set forth the terms of the engagement including a fee arrangement on an hourly basis that had been discussed prior to the execution of the agreement. VSB Ex. 7. By affidavit dated October 21, 1988, Harbeston, as managing Director of SSA, authorized the law firm of Devis and Rodriguez to act as SSA's legal representative to pursue its claims in Colombia.

4. In order for SSA to proceed with its claims in Colombia, SSA was required to appoint an agent with broad powers to represent SSA. By agreement dated December 16, 1988, executed in the District of Columbia, SSA appointed the Respondent as its legal representative in Colombia. Respondent's Ex. 8. However, Harbeston and SSA were concerned with the scope of the general power of attorney appointing Rodriguez as its agent in Colombia (Respondent's Ex. 8) and sought to limit his authority by advising the Respondent that he could only act upon the written authorization of Harbeston. By letter dated

December 14, 1988, the Respondent acknowledged this limitation on his authority, noting that any violation of the restriction "will result in an action before The Virginia Bar Ethics Committee". VSB Ex. 9. By memorandum dated December 13, 1988, Harbeston advised all law firms employed by 58.4, including Devis and Rodriguez, that John Erlichman would coordinate and manage all litigation by SSA. VSB Ex. 8.

5. By letter dated January10, 1989 SSA authorized Respondent as its legal representative in Colombia to file a lawsuit against the Republic of Colombia to confirm its rights to the sunken ships. VSB Ex. 12. Thereafter, Devis proceeded to pursue SSA's claims in the courts of Colombia with apparent skill and professionalism to the satisfaction of SSA. Harbeston soon became dissatisfied with the Respondent's performance because of actions he took without written authorization but nevertheless continued the representation arrangement because of his satisfaction with Devis' performance as a litigator. By memorandum to Respondent dated June 9, 1989, (VSB Ex. 13) Harbeston reaffirmed that Respondent was to take no action on behalf of SSA without Harbeston's written authorization as Respondent had acknowledged by his December 14,1988 letter. Sometime thereafter, but prior to January 1990, the law firm of Rodriguez and Devis had dissolved but Devis continued to represent SSA in its ongoing litigation against the Republic of Colombia. By agreement dated January 3, 1991, Respondent, acting as attorney for SSA, entered into a professional services agreement with Devis to continue with the litigation on behalf of SSA against the Republic of

Colombia. This agreement changed the fee arrangement to a contingency fee arrangement whereby Devis would receive 20% of any recovery. VSB Ex. 14. Devis and the Respondent then entered into an agreement to share any contingent fee recovery.

6. By request dated January 3, 1990, the Respondent sought a legal ethics opinion from the VSB that as a Virginia attorney who had entered into a contract in Idaho to be performed in a foreign country, whether he could terminate his representation because the client had failed to pay his fee and could sue the client to collect such a fee. The VSB Ethics Committee gave its opinion on the issue (LEO 1325) that under the facts presented, the Respondent could terminate his representation and sue the client for fees, with the opinion concluding with the customary notice that it was an advisory opinion and not binding on any court. VSB Ex. 18.

7. Devis continued the litigation successfully as the case made its way through the Colombian judicial system as the Colombian government appealed each adverse decision. Respondent does not appear to have played any role in the litigation. By letter dated March 24,2000 Devis advised Respondent not to use his name in Respondent's professional activities, and that Harbeston was upset with Respondent's activities and wanted to revoke the power of attorney. VSB Ex. 15. Devis acknowledged he would honor their contingent fee sharing arrangement By letter dated April 6,2000, Harbeston revoked the general power of attorney from SSA to Respondent (which he had forgotten

to do earlier), stating that neither SSA nor its related entities owed Respondent any legal fees and that any understanding relating to fees was in the agreement between Devis and Respondent to share any contingency fee. VSB Ex. 16.

8. In September of 2000 the Respondent filed suit against SSA in the United States District Court for the Eastern District of Virginia seeking to enforce a claim for attorney's fees in the amount of $4.5 million against SSA. VSB Ex. 19, The Respondent testified that he based the amount of his attorney's fee claim on the annual salary ($300,000 to $400,000) of a legal representative of a United States company in a foreign land for a period of 12 years. Included as defendants in this litigation were Harbeston, related entities to SSA and Devis. None of the defendants were residents of the Commonwealth of Virginia. The Respondent basis for jurisdiction by the federal court in Virginia was the fact that he was a Virginia attorney, Virginia Code Section 54.1-3932 grants an attorney a lien for fees and LEO 1325 which said he could sue his client. The defendants in this litigation obtained the services of Harrison Pledger, a Virginia attorney, who filed a motion to dismiss based on the lack of personal jurisdiction over the defendants. This motion was granted and the suit was dismissed. The Respondent then appealed to the Fourth Circuit Court of Appeals and that court affirmed the District Court's ruling. The Respondent then petitioned for a Writ of *Certiorari* in the United States Supreme Court but that petition was denied.

9. After the denial of The Writ of Certiorari by the United States Supreme Court the Respondent filed a slightly different law suit in the United States District Court for the Eastern District of Virginia against the defendants in the earlier suit and also added several other defendants who were investors in SSA or related entities. VSB Ex. 20. The District Court dismissed this second law suit, finding that the Respondent had failed to plead additional facts to the first suit to give the court personal jurisdiction over any of the defendants. This ruling was affirmed on appeal to the Fourth Circuit The Respondent then sought a Writ of *Certiorari* from the United States Supreme Court which was also denied.

10. While the appeal of the second lawsuit was pending, the Respondent filed a third similar lawsuit - this time in the Circuit Court of Fairfax County against SSA. In this third lawsuit the Respondent named the defendants in the second law suit and Harrison Pledger and his law firm as defendants. VSB Ex. 21. This law suit was also dismissed but the court denied the defendants' motions for sanctions.

11. The Respondent created a website which displayed false and misleading information regarding his relationship with SSA and his participation in the litigation in Colombia. VSB Ex 24 & 25. On the site, the Respondent claimed that in 1988, at the request of the United States Department of State, he became SSA's legal representative and managing attorney responsible for managing alternative dispute resolution negotiations and outside counsel in litigation against the government of Colombia, posts he claims he

held until 2000. These assertions are not true. On his resume, the Respondent listed a LLM Civil law degree from the University of Bordeaux. While the Respondent attended a class at the University of Bordeaux, he never received a degree from that university. The Respondent also listed an American Trial Lawyers Ultimate Trial Lawyer Certification. There is no such certification. The basis for Respondent's claim is the fact that he attended a one week continuing legal education program sponsored byte Association of Trial Lawyers of American titled "Ultimate Trial Advocacy".

12. Respondent, in 2004,while communicating with the U.S. State Department regarding Freedom of Information Act ("FOIA") requests he had made for information relating to SSA litigation, represented that he was the attorney for SSA notwithstanding the fact that Harbeston had revoked his authority in 2000. VSB Ex. 23. Respondent claimed that since the power of attorney filed with the Colombian government had never been terminated he was not making a misrepresentation in his FOIA request.

VSB Docket No. 04-502-1044

1. The Respondent lived for many years in Colombia and had married Amalin Hazbun Escaf a citizen of Colombia. One son was born of the marriage. The marriage ultimately ended in a divorce in Colombia with the wife/mother obtaining custody of the son by order of a Colombian court with visitation rights to the Respondent.

2. The Respondent subsequently returned to the United States where he has been living and his son visited him

pursuant to the visitation rights granted by the Colombian Court. In 2001 while the son was visiting the Respondent the Respondent refused to return his son to Colombia and filed an action in the Juvenile and Domestic Relations Court in Fairfax County to gain custody of his son.

3. In 2001, subsequent to the filing of Respondent's suit in the Juvenile and Domestic Relations Court in Fairfax County, Respondent's ex-wife filed an action in the United States District Court for the Eastern District of Virginia, under the Hague Convention on the Civil Aspects of Child Abduction (the "Hague Convention") and the International Child Abduction Remedies Act ("ICARA") in order to secure the return to Colombia of her son. VSB Ex. 34. In this litigation she was represented by Patrick Stiehm, a Virginia attorney who had undertaken this representation *pro bono* at the request of the National Center for Missing and Exploited Children ("NCMEC"). NCMEC is a non profit corporation that acts as a neutral in facilitating the processing of claims under the Hague Convention and ICARA. When Stiehm initially contacted Respondent to inform him of the pending litigation, Respondent told Stiehm that his *pro bono* representation would cost Stiehn "a big chunk of change." In keeping with this threat, Respondent immediately filed a motion for sanctions against Stiehn (VSB Ex. 35) but that motion was denied. VSB Ex. 38. However, Respondent's subsequent litigation described herein, which included Stiehm as a defendant, resulted in Stiehm incurring significant legal expenses to respond to meritless and vexatious litigation.. After a bench trial the Court ruled that the Respondent had kept the child

in Virginia in violation of his ex-wife's custody rights. VSB Ex. 39. The Court ordered that the child be removed from the Respondent's custody and returned to the child's mother in Colombia The Respondent's appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court were denied. After all appeals and stays were denied the son was reunited with his mother and left for Colombia in June of 2002.

4. In January of 2003, the Respondent filed suit in the District Court for the District of Columbia against numerous defendants, including NCMEC, several employees of NCMEC, the United States District Court for the Eastern District of Virginia, the Fourth Circuit Court of Appeals, the Circuit Court of Fairfax County, the Court of Appeals of Virginia, the District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia, various judges, a court clerk, the United States Department of State, Patrick Stiehm and Stephen Cullen (an attorney who had assisted Stiehm in the Virginia litigation) claiming a constitutional conspiracy by the defendants against him in his litigation in Virginia. VSB Ex. 43. Staff members of NCMEC had been witnesses in the Virginia litigation and NCMEC had provided legal representation to witnesses in the litigation in Virginia. In filing this litigation in which Respondent and his son were named as plaintiffs, Respondent who is not licensed to practice in the District of Columbia and had not obtained an order to appear *pro hoc vice*, attempted to act as attorney for his son.

5. In March of 2003, the Respondent filed a Writ of

Mandamus in an attempt to compel NCMEC to take actions to force the country of Colombia to grant the Respondent access to his son. VSB Ex. 64. By letter dated September 24,2003, Warren L. Dennis, Esquire, counsel for NCMEC, informed the Clerk of the United States Supreme Court that NCMEC would not be filing a responsive brief to the Respondent's Writ because, inter alia, it had no power to compel the government of the country of Colombia to do anything. VSB Ex. 65. Upon receipt of a copy of the letter, the Respondent called Mr. Dennis's office and left a voice mail message in which he threatened to file an ethics complaint because the letter falsely characterized the Respondent's Virginia litigation. Also, by letter dated September 29,2003, the Respondent gave notice of his intent to file a judicial complaint and District of Columbia Bar complaint against those involved in the litigation unless facts already proved were proved within twenty-four (24) hours. VSB Ex 67.

6. In the District of Columbia litigation the Respondent repeatedly filed pleadings with no basis in law or fact. VSB Ex. 43 - 81. In an amended complaint (VSB Ex. 72) Respondent asserted a claim under the Racketeer Influenced and Corrupt Organization Act (RICO) 18 U.S.C. 1961. Included as defendants in the complaint were the United States Supreme Court; the United States Court of Appeals for the Fourth Circuit; the United States Court of Appeals for the District of Columbia, the United States District Court for the Eastern District of Virginia, the United States District Court for the District of Columbia, the Virginia Supreme Court, the Court of Appeals of Virginia

and the Circuit Court of Fairfax County. Respondent's actions in the D.C. litigation clearly demonstrates his use of the legal system to harass and intimidate anyone whom he considered to have been involved in the Virginia litigation that returned his son to Colombia and to re-litigate the Virginia case.

7. Respondent's actions in naming NCMEC and some of its employees as defendants in this litigation cost NCMEC over $160,000 in legal expenses and nearly bankrupted the organization. Throughout the course of this litigation, the Respondent misrepresented his credentials as a lawyer and his license status in the District of Columbia and New York to the courts and opposing parties. The Respondent graduated from law school in 1976. He was first licensed to practice law in the Commonwealth of Virginia in 1982. Virginia is the only jurisdiction in which Respondent has a license to practice law. The Respondent listed a number of governmental and quasi governmental legal jobs in the District of Columbia on his resume between the years 1976 and 1982 requiring a valid law license in the United States, during which period he was not licensed to practice law anywhere in the United States. The Respondent also noted on various documents that he practiced law in the District of Columbia for a period of time after his licensure in Virginia, but has never been licensed in the District of Columbia.

8. During this litigation, the Respondent filed pleadings and attempted to represent his minor son on several occasions in the District of Columbia litigation, despite the fact there

was a conflict of interest between the father and son, despite the fact that the Respondent would be a witness in the case and despite the fact that the judge instructed the Respondent to cease representing his son. VSB Ex 48 & 50. The Respondent's law partner also attempted to represent the son but the court refused to permit that representation.

I. MISCONDUCT

The Certification for VSB Docket No. 04-052-0794 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), ©), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer,

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or where representation has commenced, shall withdraw from the representation of a client if:

(3) the lawyer is discharged.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(I) file a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 7.1 Communications And Advertising Concerning A Lawyer's Services

(a)A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication or advertisement violates this Rule if it:

(1) contains misleading fee information;

(2) states or implies that the outcome of a particular legal matter was not or will not be related to its facts or merits;

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated;

(4) contains an endorsement by a celebrity or public figure who is not a client of the firm without disclosure (I) of the

fact that the speaker is not a client of the lawyer or the firm, and (ii) whether the speaker is being paid for the appearance or endorsement; or

(5) contains a portrayal of a client by a non-client without a disclosure that the depiction is a dramatization.

In the determination of whether a communication or advertisement violates this Rule, the communication or advertisement shall be considered in its entirety including any qualifying statements or disclaimers contained therein.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

The Certification for VSB Docket No. 04-052-1044 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.7 Conflict of Interest: General Rule

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by

the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

RULE 3.1 Meritorious Claims And Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration may nevertheless so defend the proceeding as to require that every element of the case be established.

RULE 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly

(1) make a false statement of fact or law to a tribunal;

(2) fail to disclose a fact to a tribunal when disclosure is

necessary to avoid assisting a criminal or fraudulent act by the client, subject to Rule 1.6;

(3) fail to disclose to the tribunal controlling legal authority in the subject jurisdiction known to the lawyer to be adverse to the position of the client and not disclosed by opposing counsel; or

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity; the lawyer shall take reasonable remedial measures.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

(h) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

(I) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(I) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter,

(j) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 3.7 Lawyer As Witness

(a) A lawyer shall not act as an advocate in an adversarial proceeding in which the lawyer is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

RULE 44 Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that have no purpose other than to embarrass, delay; or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

RULE 5.5 Unauthorized Practice Of Law

(a) A lawyer shall not:

(1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(2) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

RULE 7.1. Communications Concerning A Lawyer's Services

(a) A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it:

(1) contains false or misleading fee information; or

(2) states or implies that the outcome of a particular legal matter was not OR will not be related to its facts or merits; or

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated; or

(4) is likely to create an unjustified expectation about

results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

RULE 7.4 Communication Of Fields Of Practice And Certification

Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, and Rule 7.3, as appropriate. A lawyer shall not state or imply that the lawyer has been recognized or certified as a specialist in a particular field of law except as follows:

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

©) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named

organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

Effective Nov. 1,2002

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

©) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that

reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

©) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

Effective Mar. 25, 2003

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.

©) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

III. DISPOSITION

Upon review of the forgoing finding of facts, the exhibits presented by Bar Counsel on behalf of the VSB as Exhibits 1- 92, the exhibits presented by the Respondent as The Respondent's Exhibits 1-42, the evidence from witnesses presented on behalf of the VSB and evidence presented by the Respondent in the form of his own testimony, and at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After deliberation the Board reconvened and stated that it had found by clear and convincing evidence that the Respondent had violated The following Rules of Professional Conduct: in Docket No. 04-052-0794, Rule 1.2(a); 1.5(a); l.16(a)(3); 3.4(I); 7.1(a); 8.4(b) & ©); in

Docket No. 04-052-1044. Rule 1.7(b) 1-2; 3.1; 3.4 (d)(h)(i)(j); 3.7(a)(1-3); 4.4 and 8(b) and ©).

The Board stated that the Bar had failed to prove by clear and convincing evidence any violation of the following the Rules of Professional Conduct: 3.3(a)1-4; 5.5(a)l-2; 7.1(a)1-4; 7.4(a)(b)(c)(d); and effective Nov. 1, 2002 7.4(a)(b)(c)(d).

The bases for the Boards finding of violation of the Rules of Professional Conduct are as follows:

VSB Docket No. 04-052-0794

(a) The Respondent violated Rule 1.2(a) (Scope of Representation) in that his authorization to act on behalf of his client SSA was limited, but he nonetheless acted without written authorization from his client. Furthermore, after he had been discharged by SSA, he wrote the Department of State claiming to be the managing attorney of SSA, which was not the case. He also made a FOIA request without any authorization.

(b) The Respondent violated Rule 1.5(a) 1-8 (Fees) with his claim of a fee of 4.5 million dollars. Respondent acknowledged that the fee arrangement was a contingent fee arrangement and no recovery had been made. Therefore, there was no basis to claim a fee. Furthermore, the amount of the fee, $4.5 million, does not appear to have any reasonable relationship to work actually performed which is necessary for a recovery on a quantum merit basis.

Respondent testified that he determined the amount based upon what the salary would be for a legal representative for a U.S. company operating in a foreign country.

(c) The Respondent violated Rule 1.16 (a)(3) (Declining or Terminating Representation) by representing that he was SSA's managing attorney in a FOIA request (VSB Ex. 23), which he made well after SSA had terminated their relationship.

(d) The Respondent violated Rule 3.4(I) (Fairness to Opposing Party and Counsel) by tiling the litigation in the United States District Court for the Eastern District of Virginia and the Circuit Court of Fairfax County, Virginia. It should appear to any reasonably competent lawyer that the courts did not have jurisdiction over the parties named as defendants. Even giving the Respondent the benefit of the doubt as to the first suit, he received a ruling that the court lacked personal jurisdiction over the defendants which was upheld on appeal. He nonetheless filed a second suit with the same infirmity seeking the same recovery. Furthermore, his suit in the Circuit Court of Fairfax County, Virginia, included as a defendant Harrison Pledger and his law firm, merely because Mr. Pledger had acted as defense counsel in the two suits in the federal court

(e) The Respondent violated Rule 7.1(a) 1-5 (Communication Concerning a Lawyer's Services) by misrepresentation on his website and resume. VSB Exhibits 24 and 25 show that Mr. Rodriguez, on the website he created, misrepresented his relationship with SSA. He

misrepresented what he did for SSA and how he became employed by SSA. He misrepresented his education by listing an LLM civil law degree from the University of Bordeaux. He improperly claimed a certification (the American Trial Lawyer Ultimate Trial Lawyer Certification) where no such certification exists.

(f) The Respondent violated Rule 8.4(b) and 8.4©) (Misconduct) by representing in his FOIA request that he was the managing attorney for SSA, when the evidence shows that he clearly was not.

VSB Docket No. 04-052-1044

(a) The Respondent violated Rule 1.7(b) 1-2 (Conflict of interest) in his attempt to represent his son in the District Court for the District of Columbia and his continued actions to do so even in the face of a court ruling that there was a conflict.

(b) The Respondent violated Rule 3.1 (Meritorious Claims and Contentions) by his litigation in the District Court for the District of Columbia and his actions in the Circuit Court of Fairfax County, Virginia. The complaint filed by the Respondent with all the parties he named as defendants standing alone shows that the Respondent has violated this Rule. The numerous pleadings filed thereafter further demonstrate that the Respondent's aim was to punish anyone who had any connection with the litigation filed by his former wife to regain custody of their son. Any attorney who had in any way appeared in that litigation ended up

being named as a defendant. NCMEC and several of its staff were named as defendants resulting in a legal cost to NCMEC alone of $160,090.00 Attorney Patrick Stiehm who had taken Respondent's ex-wife's case pro bono was named as a defendant thereby making good on Respondent's claim that Stiehm's representation would cost him a "big chunk of change."

Furthermore, in litigation in Fairfax County, Respondent subpoenaed two members of NCMEC as witnesses for a hearing involving his efforts to file a Statement of the Case for an appeal, when these two staff members had nothing to do with the Fairfax litigation. While the subpoenas were quashed they nevertheless had the effect of harassing the NCMEC staff members. Remarkably this is the only instance in which the Respondent was sanctioned by a court.

Perhaps if he had been sanctioned earlier, either by the United States District Court for the Eastern District of Virginia or the District Court for the District of Columbia, such action would have put a stop to Respondent's unwarranted and vexatious conduct. Unfortunately neither of the courts saw fit to impose sanctions.

©) The Respondent violated Rule 3.4(d)(h(i)(j) (Fairness to Opposing Party and Counsel) by the following conduct: (1) by continuing to attempt to represent his son in the District of Columbia litigation in the face of a court ruling, in violation of Rule 3.4(d); (2) by threatening the NCMEC attorney with a bar complaint and filing a criminal

complaint with the FBI, in violation of 3.4(h); (3) by filing a motion for sanctions against Patrick Stiehm and naming Stiehm as a defendant in the District of Columbia litigation and by his entire course of conduct in the District of Columbia litigation, in violation of Rule 3.4(i)(j);

(d) The Respondent violated Rule 3.7(a) 1-3 (Lawyer as Witness) by acting as an advocate when he was a necessary witness in the Eastern District of Virginia litigation.

(e) The Respondent violated Rule 4.4 (Respect for the Rights of Third Persons) by the whole course of litigation in the District Court for the District of Columbia. In addition, his subpoena of Ms. Brinkerhoff and Mr. Dennis to the Fairfax Circuit Court for a bearing on the Statement of Facts to be submitted for appeal further demonstrates a violation of this Rule.

(f) The Respondent violated Rule 8.4(b) and 8.4©) (Misconduct) in asserting a RICO claim and by his letter to the FBI.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and the Respondent, including the Respondent's prior disciplinary record. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by the Respondent. After due deliberation the Board reconvened to announce the sanction imposed. The Chair announced the sanction as REVOCATION.

The Board *in reaching its decision of* revocation recognized that the violation of certain of the Rules such as Rule 1.5(a), 7.1, and 8.4(b) & (c) standing alone may not merit the ultimate sanction of revocation. However, the Respondent's conduct by pursuing litigation in Virginia in Docket No. 04-052-0794 and in the District of Columbia in Docket No. 04-052-1044 is conduct that cannot be tolerated. While a court through sanctions can protect itself from such conduct by a deceitful and unprincipled attorney, the public must look to the VSB for protection. The other violations demonstrate Respondent's complete disregard for the Rules of Professional Conduct.

Furthermore the Respondent was defiant to any criticism of his conduct in pursuing what can only be described as meritless and vexatious litigation. This same defiance was evident to the Board as the Respondent sought to justify his conduct. Therefore the Board concluded that the sanction of revocation was the only remedy by which the public and bar could be adequately protected.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is revoked, effective October 27, 2006.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he

is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client The Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of October 27,2006, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13,B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia

State Bar, being 7924 Peyton Forest Trail, Annandale, VA 22003-1560, by certified mail, return receipt requested, and by regular mail to Noel 0. Sengel, Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria, Virginia, 22314-3133.

ENTERED this 28th day of November, 2006

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: /S/
James Leroy Banks., Jr. 1st Vice Chair

VSB Disciplinary- htto:/ /www.vsb.om/discilinarv .html

Isidoro Rodriguez, Esq.,
7924 Peyton Forest Trail, Annandale, VA 22003
VSB Docket Nos. 04-053-0794 and 04-052-1044

On October 27,2006, the Virginia State Bar Disciplinary Board revoked Isidoro Rodriguez's license to practice law. Among other findings, the board determined that Mr. Rodriguez took actions when it was obvious such actions would serve merely to harass or maliciously injure another and engaged in deliberately wrongful conduct that reflected on his fitness to practice law.

VIRGINIA:
BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD
IN THE MATTER OF Isidoro Rodriguez, Respondent
VSB Docket #(s) 04-052-0794 & 04-052-1044

SUMMARY ORDER

On October 27, 2006, this matter was heard by the Virginia State Bar Disciplinary Board pursuant to Notice served upon the Respondent in the manner provided by the Rules of Supreme Court of Virginia (the "Notice").

WHEREFORE, upon consideration of the testimony, documentary evidence, and arguments of counsel, it is ORDERED that:

1. With respect to the disciplinary rule violations set out in the Notice, the Board finds that

_____No disciplinary rule violations have been proved by clear and convincing evidence, and accordingly all charges of Misconduct are hereby dismissed.

__X____the following disciplinary rule violations have been proved by clear and convincing evidence:

04-052-0794 1.2(a); 1.5(a) 1-8; 1.16(a)(3); 3.4(l); 7.1(a) 1-5; 8.4(b) and 8.4(c)

04-052-1044 1.7(b) 1-2; 3.1; 3.4(d) 3.4(h); 3.4(l); 3.4(j); 3.7(a)1-3; 4.4; 8.4(b) and 8.4(c).

that the Board dismisses all other disciplinary rule violations charged against the Respondent in the Notice.

2. The Respondent shall receive a:

_____Suspension for_____(not to exceed five years)

__X_____Revocation

3. This Summary Order is effective on:

_____X___ The date of this summary order

_____ _____, 20___ __

4. The Board notes that:

__X_____The Respondent was present in person and was advised of the imposition of the sanction

_____The Respondent was not present in person, but the Clerk of the Disciplinary System is directed to communicate promptly to the Respondent the actions of the Board

5. The Board shall issue a written opinion in this matter

6. The Board notes that concerning Paragraph 13(M) that:

_____X_____Respondent shall comply with all requirements of 13(M) of the Rules, including but not limited to sending the required notices, making the required arrangements, and providing the required proof to the Bar

_____Respondent has complied with notice provisions of Rules of Court, Paragraph 13(M) dealing with appropriate notification of suspension to his clients, judges, and opposing counsel in pending litigation

7. The Clerk of the Disciplinary System shall comply with all requirements of Part Six, § IV, 1113 of the Rules of the Supreme Court, as amended (the "Rules), including but not limited to: assessing costs pursuant to 1113(B)(8)©) of the Rules; and, complying with the Public Notice requirements of 13(B)(8)(d).

8. A copy teste of this Order shall be mailed by Certified Mail, Return Receipt Requested, to the Respondent, at his last address of record with the Virginia State Bar and mailed or hand-delivered to Bar Counsel in this matter.

ENTER: This 27th day of October, 2006

VIRGINIA STATE BAR DISCIPLINARY BOARD

_____/S/_____, Chair

J. Leroy Banks, Jr. Esq.

[SEAL]
50 Years Public Service
Virginia State Bar
1938-1988

VIRGINIA STATE BAR
Tenth Floor, Ross Building, 301 East Main Street
Richmond, Virginia 2319 (804)786-2061

(804)736-5966 (Voice/TDD)

STANDING COMMITTEE ON LEGAL ETHICS

February 27; 1990
PERSONAL AND CONFIDENTIAL

Isidoro Rodriguez C., Esquire
Calle 84 No. 56-51
Piso 2, Oficina 4
Barranquilla, Colombia S.A.

Re: Legal Ethics Opinion # 1325

Dear Mr. Rodriguez:

I am writing in response to your letter dated January 3, 1990, requesting an informal advisory opinion from the Virginia State Bar Standing Committee on the Legal ethics ("committee").

You have advised that, although you are a member of the Virginia State Bar, you reside and practice in a South American country. You further indicate that you entered into an agreement, which was executed in Idaho, to

represent a foreign corporation in the negotiation, settlement, and/or litigation against a foreign government resulting from the corporation'sclaim as finder of a shipwreck which contained an estimated $3 billion in treasure. The agreement provided for an hourly fee rate, costs, and monthly detailed invoices and was affirmed by the corporation's Board of Directors which also named you as Legal Representative for the corporation. You have described for the committee that a Legal Representative In the country in which you practice is distinct from an attorney at law and is the commercial. representative for the company in that country with all of the corporate powers of the Board of Directors and all, of the potential individual liability. Furthermore, such a Legal Representative is not required to be an attorney at law. Subsequent to those corporate actions, you were authorized to bring a legal action against the foreign government and you authorized your then-law partner, which partnership has subsequently been dissolved, to file the suit as Attorney of Record. The facts you have provided indicate that the suit was filed shortly after you authorized your partner to do so.

You indicate that, although much time has been expended on the case and the corporation repeatedly expressed satisfaction with the work being performed by your firm, the corporation has failed to comply with its contractual agreement to pay invoices after they were presented. Specifically, the corporation agreed to pay $10,000 approximately two months after suit was filed and an additional $50,000 within 30 days thereafter. The

first payment ($10,000) was made as scheduled, but no further payments have
been made by the corporation. Subsequent to thatfirst payment, the corporation requested a contingent fee agreement be submitted for consideration; such a contract was prepared and submitted, but the corporation has not responded.

In addition to the failure to pay fees, you indicate that the corporation, without your knowledge, sent a defamatory letter against the foreign government which then prepared an official protest to the United States Embassy. You indicate that the letter accused the government and unnamed officials of criminal acts, subjecting you, as the corporation's Legal Representative, to civil liability and both you and your former law partner to physical danger.

As a result of both issues, failure to pay fees and costs owed and the defamatory latter, you requested that the corporation retain a new Legal representative and a new attorney. You indicate that to date you have not received any response from the corp-oration's Board of Directors.

Finally, you advise that under the law and profes-sional norms of the foreign government, your former lev partner has a right to unilaterally and voluntarily withdraw from the litigation, without any requirement to seek permission of the trial court. You indicate that he may also file a civil suit against the corporation for monies owed during or after litiga-tion. Your former

partner has not exercised those rights pending your receipt of this informal
advisory opinion.

You have asked that the committee opine as to the propriety of your renunciation of your fiduciary appointment as Legal Representative to the corporation in view of the non-payment of costs and fees owed and of the defamatory letter sent by the corporation to the foreign government. You have further inquired as to the propriety of your instituting suit against the corporation for their non-payment of fees and costs owed.

The appropriate and controlling rules relative to your questions are DR l-102(A)(4) which prohibits a lawyer from engaging "in conduct involving dishonesty, fraud, deceit, or misrepresentation which reflects adversely on [the] lawyer's fitness to practice law"; DR 2-l08(B)(2, 3, and 4) which proscribe the conditions which permit a lawyer to withdraw from representing a client; DR 2—108©) which directs that counsel of record in a court proceeding may not withdraw except by leave of court after notice to the client of the timeand place of a motion for leave to withdraw; and DR1-102(B) which instructs that a lawyer admitted to practice in Virginia is subject to the Virginia Code of Professional Responsibility although engaged In practice elsewhere, unless disciplinary rules of the foreign jurisdiction permit the activity [emphasis added].

The committee is of the opinion that the provisions of DR

1-102(A)4) embrace far more than an attorney's conduct in the context of an attorney/client relationship. Thus, the committeeopines that when an attorney assumes the responsibility of acting as a fiduciary and violates his or her duty in a manner that would justify disciplinary action had the relationship been that of attorney/client, the attorney may be properly disciplined pursuant to the Code of Professional Responsibility. The committee thus specifically adopts the conclusions reached in ABA Formal Opinion 336. See also: State. v Freeman, 229 Kan. 639, 629 P.2d 716 (1981); and Committee on Professional Ethics v. Gross, 322 N.V2d 82 (Iowa 1982).

Virginia Disciplinary Rule 2-108(B), subsections (2), (3), and (4), directs that a lawyer may withdraw from representing a client if (2) the client persists in a course of conduct involving the lawyer's services that the lawyer reasonably believes is illegal or unjust; (3) the client fails to fulfill an obligation to the lawyer regarding the lawyer's services and such failure continues after reasonable notice to the client; or (4) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client. The committee is of the opinion that, under the facts you have provided, it would n6t be improper to move to withdraw as Legal Representative for the corporation. See also LEO #974. The committee understands, however, from your recitation of the facts, that such permission of the court is not required in the foreign country in which you practice. Under those circumstances, the committee directs your attention to

DR 1-102(B) which, as noted above, would control. Therefore, if the professional norms in that country permit unilateral and voluntary withdrawal from representation without authorization by the court, it would not be improper for you to act accordingly.

The committee has earlier opined that there is no disciplinary rule ethically prohibiting an attorney from bringing an action against his client for past-due attorney's fees end costs. See LEOs #974 and 995. Guidance I available under Ethical Consideration 2-25 which urges that a lawyer should not sue a [current] client for a fee unless necessary to prevent fraud or gross imposition by the client. See LEO 11117. But see LEOs #1230 and 1257.

This opinion is advisory only, based only on the facts you presented and not binding on any court or tribunal.

Very truly yours,
Kathleen O'Brien

Encl.
cc: C. Torrence Armstrong, Esquire
Willard M. Robinson, Jr., Esquire
Susan B. Spielberg, Esquire